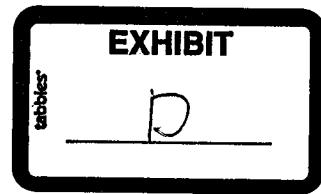


15 DEPOSITION OF DR. DOUGLAS PERNIKOFF
16 TAKEN ON BEHALF OF THE DEFENDANTS
17 JUNE 27, 2018

JUNE 27, 2018



DR. DOUGLAS PERNIKOFF 6/27/2018

Page 5	Page 7
<p>1 ALSO PRESENT:</p> <p>2 ALARIS</p> <p>3 711 North 11th Street</p> <p>4 St. Louis, Missouri 63101</p> <p>5 (314) 644-2191</p> <p>6 1-800-280-DEPO</p> <p>7 by: Ms. Tara Schwake, CRR, RPR, CCR, CSR</p> <p>8 transcripts@alarislitigation.us</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 Q And how long have you worked there?</p> <p>2 A Twenty-four years.</p> <p>3 Q What are your responsibilities?</p> <p>4 A I am the owner and I am also a</p> <p>5 general practitioner and I play vet every day.</p> <p>6 Q Are you familiar with the Missouri</p> <p>7 Primate Foundation?</p> <p>8 A I am.</p> <p>9 Q And at some point did you become a</p> <p>10 member of the governing board?</p> <p>11 A When I was just graduating, I met</p> <p>12 them about 36 years ago, and they asked me to be on</p> <p>13 their board and at that time I was very excited to</p> <p>14 be involved, especially with exotic species.</p> <p>15 Q Who asked you to be on the board of</p> <p>16 the Missouri Primate Foundation?</p> <p>17 A I think it was, if I remember, it was</p> <p>18 probably Connie and her husband at that time was --</p> <p>19 what's his name?</p> <p>20 Q Is it Mike?</p> <p>21 A Mike Casey.</p> <p>22 Q Connie and Mike Casey?</p> <p>23 A Yeah.</p> <p>24 Q And did Connie and Mike Casey tell</p> <p>25 you why they wanted you to join the Missouri</p>
<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

2 (Pages 5 to 8)

DR. DOUGLAS PERNIKOFF 6/27/2018

Page 9	Page 11
<p>1 said, "Well, you're on the board." I go, "I am?" 2 So I had to dismiss myself from the board right 3 away.</p> <p>4 Q Oh. So you dismissed yourself from 5 the board?</p> <p>6 A I had my lawyer send them a note 7 dismissing myself formally.</p> <p>8 Q And do you know when that was done?</p> <p>9 A I would -- no, I don't have an exact 10 date. I can certainly get you that.</p> <p>11 Q Do you have an approximate date 12 perhaps with reference to the pending lawsuit? Was 13 it after --</p> <p>14 A Well, it had to be after 15 communication was made, but I know it was before 16 the formal lawsuit, okay? So I just know there was 17 discussion that PETA was interested in, you know, 18 getting these chimps.</p> <p>19 Q So is your understanding that before 20 litigation was filed by anybody, you were aware 21 that PETA was interested in getting chimpanzees 22 from the Missouri Primate Foundation transferred?</p> <p>23 A Well, I just knew that they were 24 interested in whatever they would do, you know, to 25 discuss that. I don't know what the specifics</p>	<p>1 graduate. I was excited to be part of anything 2 that was exotic and that's all I knew. I wasn't 3 sophisticated as a business person or anything like 4 that.</p> <p>5 Q May I ask how old you are presently?</p> <p>6 A Sixty-five. You got to finish before 7 I die, this deposition.</p> <p>8 Q You and me both. I might go before 9 you.</p> <p>10 A I don't think so.</p> <p>11 Q All right. That should have been off 12 the record.</p> <p>13 A Whatever.</p> <p>14 Q And in all the 30 years, if I 15 understand you correctly, you never -- there was 16 never any activity that you were called upon to act 17 in your capacity as a board member?</p> <p>18 A Correct. Actually more like 36 19 years.</p> <p>20 Q Would it be fair to say that you -- 21 are you aware of any safeguards that were put in 22 place that would have prevented Miss Casey from 23 exercising sole and complete control over Missouri 24 Primate Foundation?</p> <p>25 A I -- I am not sure I even understand</p>
<p style="text-align: center;">Page 10</p> <p>1 were. I assume that means moving the chimps.</p> <p>2 Q And who told you that? Who did you 3 have these conversations with?</p> <p>4 A Well, I think it was when Kurt Reeg 5 -- I can't recollect but I think it was when Kurt 6 Reeg explained that I was a board representative 7 and I said, well, I don't want to be a board 8 representative, we haven't done anything.</p> <p>9 Q So you told Mr. Reeg that you didn't 10 want to be on the board and you hadn't --</p> <p>11 A I had my attorney just send a note 12 dismissing my position.</p> <p>13 MR. BALDWIN: I don't think that was 14 me. That might have been before my time but I can 15 look.</p> <p>16 Q (BY MS. BERNSTEIN) That would be 17 great just so we can have the date pinned down, but 18 certainly Mr. Reeg and Ms. Casey should have a 19 record of that; is that a fair assumption?</p> <p>20 A Yes.</p> <p>21 Q When you first agreed to serve on the 22 board, did you understand you would hold certain 23 fiduciary obligations to Missouri Primate 24 Foundation?</p> <p>25 A I was 30 years old. I was a new</p>	<p style="text-align: center;">Page 12</p> <p>1 that but I mean, I don't know, no.</p> <p>2 Q So as far as you know, Miss Casey 3 could have done whatever she wanted to with the 4 Missouri Primate Foundation?</p> <p>5 A I -- it's not -- it's not in my 6 wheelbase. I wouldn't have any idea what the 7 purpose of the board is.</p> <p>8 Q So it would be fair to say that Miss 9 Casey never sought the board's consent or input 10 about how to spend the funds of the organization, 11 for example?</p> <p>12 A Correct.</p> <p>13 Q And she never sought the board's 14 consent or input about her decision, or the 15 decision of Missouri Primate Foundation to sue 16 PETA?</p> <p>17 MR. BALDWIN: Can I at least be with 18 the understanding that he was aware of? Or to his 19 knowledge?</p> <p>20 MS. BERNSTEIN: Of course. Of 21 course.</p> <p>22 Q (BY MS. BERNSTEIN) I'm asking only 23 your personal knowledge. You were not aware that 24 Miss Casey ever sought the board's consent or input 25 into whether or not to actually sue PETA?</p>

3 (Pages 9 to 12)

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DR. DOUGLAS PERNIKOFF 6/27/2018

<p style="text-align: center;">Page 13</p> <p>1 A Exactly. 2 Q But you're aware that Missouri 3 Primate Foundation did sue PETA? 4 A I am aware. 5 Q And do you know whether that was 6 before or after you dismissed yourself from the 7 board? 8 A I feel pretty -- I don't know for 9 sure but I feel pretty certain it was after I had 10 already dismissed myself from the board. 11 Q Do you know who decided whether 12 Missouri Primate Foundation should be dissolved? 13 A Nope. 14 Q Perhaps to shortcut that, are you 15 aware of the current status of whether or not 16 Missouri Primate Foundation currently is 17 functioning as a corporation? 18 A I was told, and I believe it was Mr. 19 Batten, her current attorney, said something to the 20 effect that Connie had let the corporate standing 21 pass, unintentionally, and at that point they said, 22 well, there's no reason to pursue it at this point 23 to reinstate it. 24 Q You refer to "Mr. Batten." Was that 25 Daniel Batten?</p>	<p style="text-align: center;">Page 15</p> <p>1 Q (BY MS. BERNSTEIN) Dr. Pernikoff, 2 have you been hired as a non-testifying consultant 3 in this case? 4 A I don't believe so. 5 Q Right. You certainly would know if 6 somebody hired you and said, can you be a 7 non-testifying expert in this case? 8 A Yes. I assume so. 9 Q Have you been hired to testify as a 10 -- as an expert in this case? 11 A No. I was told that I might be able 12 to provide expert witness if it ever went to trial. 13 Q Right. Right. But at this point you 14 have not been retained by Mr. Batten or Ms. Casey 15 to serve in a consulting capacity with respect to 16 this litigation; is that right? 17 A Correct. 18 Q Okay. Can you tell me what you 19 discussed with Mr. Batten during your first phone 20 call? 21 MR. BATTEN: Again I'm going to 22 object that the question calls for privileged 23 communication. 24 MS. BERNSTEIN: Sure. 25 Q (BY MS. BERNSTEIN) You can answer.</p>
<p style="text-align: center;">Page 14</p> <p>1 A Yes. 2 Q And how many times, roughly, have you 3 spoken to him? 4 A Probably two times. 5 Q And the first time, when did you 6 speak to him first? 7 A I actually -- 8 MR. BATTEN: And I'm going to object 9 to the question, that seeks privileged information. 10 MS. BERNSTEIN: Okay. I -- I will 11 need a foundation for that. Are you saying you are 12 in an attorney-client relationship with Dr. 13 Pernikoff? 14 MR. BATTEN: No, I am not. 15 MS. BERNSTEIN: So what is the basis 16 of your privilege? 17 MR. BATTEN: I'm asserting privilege 18 in that any communications with Dr. Pernikoff 19 regarding Miss Casey or this case are privileged 20 communications as a consultant involved in this 21 case. His assistance was necessary and his 22 involvement was necessary in order to be able to 23 provide Miss Casey with the appropriate knowledge 24 and understanding that Dr. Pernikoff has as a 25 veterinarian in furtherance thereof.</p>	<p style="text-align: center;">Page 16</p> <p>1 A I'm confused. 2 Q Yes. Yes. He can raise objections 3 and, as he might throughout, and a court might 4 later decide whether your testimony is admissible. 5 It's procedural. Unless your lawyer tells you not 6 to answer a question -- 7 MR. BALDWIN: I'm not in a position 8 to do that right now. 9 MS. BERNSTEIN: Right. 10 A So yes, I actually met the attorney, 11 Mr. Batten, down at the center, the first visit. 12 Q (BY MS. BERNSTEIN) Okay. At 13 Missouri Primate Foundation? 14 A Yes. And we walked around and kinda 15 introduced him to the physical space and the 16 critters. 17 Q Do you know approximately when that 18 was? Was it a month ago, two months ago? 19 A As long as I guess he's been 20 involved, yeah. 21 Q Okay. So it was your understanding 22 he had just become involved in the case? 23 A He had just, yeah, it was the first 24 time he was going to see them at the center. 25 Q And when you walked around, did</p>

4 (Pages 13 to 16)

DR. DOUGLAS PERNIKOFF 6/27/2018

Page 25	Page 27
<p>1 your objection?</p> <p>2 MR. BATTEN: No, I am not.</p> <p>3 Q (BY MS. BERNSTEIN) Did – did you</p> <p>4 have any communications or conversations with Mr.</p> <p>5 Batten at that time?</p> <p>6 A No.</p> <p>7 Q Did you have any communications with</p> <p>8 Connie at that time?</p> <p>9 A No.</p> <p>10 Q So you went there and you were told</p> <p>11 you have no business being in there and that was</p> <p>12 the extent of it?</p> <p>13 A Right.</p> <p>14 Q Okay. And have you had any other</p> <p>15 conversations with Mr. Batten or any other lawyers</p> <p>16 for – for Miss Casey?</p> <p>17 A No.</p> <p>18 MR. BATTEN: Object that the question</p> <p>19 seeks confidential and privileged communications.</p> <p>20 MS. BERNSTEIN: So it is your</p> <p>21 position that a question that merely wants to know</p> <p>22 whether there was a conversation, that in itself is</p> <p>23 privileged?</p> <p>24 MR. BATTEN: That's what I'm</p> <p>25 asserting.</p>	<p>1 he apparently was on the board, I don't know that</p> <p>2 he ever did any --</p> <p>3 MS. BERNSTEIN: Okay.</p> <p>4 MR. BALDWIN: Okay.</p> <p>5 MS. BERNSTEIN: Fair enough. I did</p> <p>6 not mean to imply that you served. Point well</p> <p>7 taken.</p> <p>8 Q (BY MS. BERNSTEIN) So your purported</p> <p>9 role as a member of the Missouri Primate</p> <p>10 Foundation's governing board was, for all intents</p> <p>11 and purposes, non-existent?</p> <p>12 A In my, yeah, in my opinion, yes.</p> <p>13 Q And sitting here today you do not</p> <p>14 even know exactly during what time span that took</p> <p>15 place?</p> <p>16 A Right.</p> <p>17 Q Because it really didn't take place;</p> <p>18 right?</p> <p>19 A You know, again, I wasn't involved in</p> <p>20 any.</p> <p>21 Q At some point were you asked to be,</p> <p>22 and perhaps for purposes of this deposition, when I</p> <p>23 refer to "MPF," I mean Missouri Primate Foundation,</p> <p>24 whether or not it existed in an official corporate</p> <p>25 form or not. Sort of the business of the</p>
Page 26	Page 28
<p>1 MS. BERNSTEIN: All righty.</p> <p>2 Q (BY MS. BERNSTEIN) Dr. Pernikoff,</p> <p>3 you are represented by counsel here today?</p> <p>4 A Yes.</p> <p>5 Q Do you have information how Miss</p> <p>6 Casey used Missouri Primate Foundation's funds and</p> <p>7 whether she may have used them for her own personal</p> <p>8 benefit?</p> <p>9 A I do not.</p> <p>10 Q Do you know if Missouri Primate</p> <p>11 Foundation has or had any assets?</p> <p>12 A I do not.</p> <p>13 Q Do you know how the organization was</p> <p>14 capitalized, if at all?</p> <p>15 A I mean, I don't know specifically.</p> <p>16 Q Have you ever seen or asked to see</p> <p>17 any documentation relating to Missouri Primate</p> <p>18 Foundation's finances?</p> <p>19 A No.</p> <p>20 Q Do you know who the other members of</p> <p>21 the board were during the time that you served on</p> <p>22 Missouri Primate Foundation's governing board?</p> <p>23 A I do not.</p> <p>24 MR. BALDWIN: I'm going to object to</p> <p>25 the use of the term "serve." The time during which</p>	<p>1 foundation I will refer to as MPF.</p> <p>2 A Okay.</p> <p>3 Q Thank you. At some point were you</p> <p>4 asked to become MPF's attending veterinarian?</p> <p>5 A Never formally.</p> <p>6 Q You -- there was never a formal</p> <p>7 arrangement between you and MPF or any of MPF's</p> <p>8 representatives to be the attending veterinarian</p> <p>9 for the chimpanzees; is that correct?</p> <p>10 A Correct. There was none.</p> <p>11 Q Were you ever asked to sign a written</p> <p>12 program of veterinary care of the chimpanzees?</p> <p>13 A You mean through the MPF?</p> <p>14 Q Or any other entity who owned or</p> <p>15 controls MPF?</p> <p>16 A No.</p> <p>17 Q Did you ever – Just to be clear, are</p> <p>18 you aware that the – that there are certain Animal</p> <p>19 Welfare Act regulations governing how the</p> <p>20 chimpanzees at MPF must be cared for?</p> <p>21 A That's kind of a vague question. I</p> <p>22 mean, I understand that there has to be good</p> <p>23 husbandry and good welfare.</p> <p>24 Q Do you understand that a written</p> <p>25 program of veterinary care may be required to be</p>

7 (Pages 25 to 28)

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